

**V. THE PUBLIC INTEREST ANALYSIS MUST FOCUS ON
COMPETITION FOR LOCAL AND FULL SERVICE OFFERINGS.**

There is more than enough grounds for the Commission to dismiss this application summarily, based on SBC's failure to satisfy the competitive presence test of Section 271(c)(1)(A) and the competitive checklist test of Section 271(c)(2)(B). The Commission therefore need not even reach the question of whether SBC's application would be "consistent with the public interest, convenience, and necessity." 60/

Nevertheless, to the extent the Commission addresses the public interest test, it must give "substantial weight" to the Department of Justice's view that the public interest would not be served by SBC interLATA entry now because SBC's local markets in Oklahoma are not open to competition. 61/ The Department of Justice is the nation's leading expert agency on competition issues and has extensive experience with this industry from its role in the creation and supervision of the AT&T divestiture decree (MFJ). As the Department of Justice states, the public interest test in Section 271 was intended to require careful scrutiny of the state of competition primarily in the market for local telecommunications, which has been most subject to BOC monopoly power and which the 1996 Act primarily targeted for opening to competition. 62/ This approach is consistent with the way

60/ 47 U.S.C. § 271(d)(3)(C).

61/ 47 U.S.C. § 271(d)(2)(A); Department of Justice Evaluation at 36-66.

62/ Department of Justice Evaluation at 39-42 & nn. 48 & 50.

the term "public interest" has been interpreted and applied in the context of other sections of the Communications Act. 63/

The Department of Justice convincingly demonstrates that BOC interLATA entry must be withheld until the BOC's local markets are "irreversibly opened to local competition." 64/ SBC's Oklahoma market is nowhere near meeting this standard. 65/ Although SBC may object to this standard, at least one other RBOC -- Ameritech -- has claimed to have satisfied it for Michigan. 66/

The Department of Justice correctly concluded that SBC's "fail[ure] to provide adequate, nondiscriminatory access to essential checklist items that potential competitors have requested," 67/ its conduct in "actively thwart[ing] competitor attempts to develop and test interfaces to SBC's OSSs," 68/ and the above-cost rates SBC is insisting on charging for local loops and other critical checklist items, 69/ are primarily responsible for the absence of local competition in

63/ Id. at 40 n.48.

64/ Id. at 44.

65/ Id. at 54 (residential users throughout Oklahoma and business users outside limited parts of Tulsa and Oklahoma City "have no real competitive choices").

66/ We do not concede that Ameritech's claim to have satisfied this test is correct.

67/ Department of Justice Evaluation at 56.

68/ Id. at 59.

69/ Id. at 61-63.

Oklahoma. It would defy common sense to reward SBC's active resistance to complying with the local competition mandates of the 1996 Act by granting SBC interLATA entry authority in Oklahoma. Indeed, the lack of competition in Oklahoma is what makes the Oklahoma state recommendation so puzzling.

Second, the Commission's public interest analysis must recognize that its recently issued universal service and access reform orders only initiate the first steps in a long transition process towards rate structures that are fully conducive to local competition. 70/ As Sprint points out, the current access charge and universal service regimes significantly impede local competition and would give local incumbents such as SBC and their long distance affiliates significant unreasonable advantages over their unaffiliated local and long distance competitors. 71/

While the Commission plotted out a transition path that it stated would ultimately lead toward cost-based interstate access charges in the Access Reform Order, 72/ that transition will take several years to implement fully. In the interim, above-cost charges for certain interstate access elements will continue to

70/ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 (released May 8, 1997) ("Universal Service Order"); Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (released May 16, 1997) ("Access Reform Order").

71/ Sprint Petition to Deny at 44.

72/ WorldCom notes that it does not agree that all the Commission's decisions in the Access Reform Order will make rates more cost-based, and reserves the right to challenge elements of that order.

disadvantage interexchange carriers, at least until they are able, on a commercial basis, to become local exchange carriers in their own right (whether via unbundled elements or competitive local facilities), to self-provide exchange access, and to provide it to other IXC's. 73/ The opportunity for IXC's to accomplish this as a practical matter is an essential prerequisite to satisfaction of the public interest test.

Finally, the Commission must reject BellSouth's extreme argument that the public interest virtually always (or presumptively) will be served by BOC interLATA entry. 74/ BellSouth's argument is premised on the assumption which has no basis in the statute or legislative history -- that the interLATA market was the sole focus of the public interest test. If Congress had intended this, then it would not have included a public interest test in the statute. In particular, it must include an analysis of the impact on competition in all telecommunications markets: local, long distance, and full service.

BellSouth's argument, which focuses on the long distance market and ignores the local market, 75/ also defies the competitive reality of the long-distance market that the Commission has recognized time and again. There are no dominant carriers in the long distance market; there are multiple consumer choices

73/ See Access Reform Order at para. 265.

74/ BellSouth Comments at 13-16.

75/ Id. at 13.

in all markets; overall long distance rates have declined significantly over the past several years; and the operational support systems needed for customers to switch long distance carriers have been humming along smoothly for years. ^{76/} By contrast, it is the local telecommunications market that is dominated by BOC monopolies today, and that cannot be opened to competition until the BOCs comply with their statutory obligations to offer unbundled network elements and other checklist items on a commercially reasonable basis. As discussed above, SBC has not yet satisfied these obligations, and its application must therefore be denied.

^{76/} Motion of AT&T to be Reclassified as a Non-Dominant Carrier, 11 FCC Rcd 3271 (1995).

CONCLUSION

For the reasons given here and in its initial comments, WorldCom urges the Commission to deny SBC's application because (1) SBC fails to satisfy the "competitive presence test" of Track A and (2) SBC is ineligible to file a Track B application. The FCC need not, therefore, reach the issue of SBC's checklist compliance. If it does, it should find that SBC has failed to satisfy many of the checklist requirements.

Respectfully submitted,

WORLD.COM, INC.

By: 

Catherine R. Sloan
Richard L. Fruchterman, III
Richard S. Whitt
WorldCom, Inc.
1120 Connecticut Ave., N.W.
Washington, D.C. 20036-3902
(202) 776-1550

Linda L. Oliver
David L. Sieradzki
Steven F. Morris
Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004
(202) 637-5600
Counsel for WorldCom, Inc.

May 27, 1997

CERTIFICATE OF SERVICE

I, Barbara E. Clocker, hereby certify that on this 27th day of May, 1997, copies of the foregoing "Reply Comments of WorldCom In Opposition To SBC Application For InterLATA Authority In Oklahoma" were served by hand delivery or by overnight delivery, to the following:

ITS
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Court Clerk
Oklahoma Corporation Commission
Jim Thorp Building
2101 N. Lincoln Blvd.
Oklahoma City, OK 73105 (via overnight delivery)

Donald Russell
U. S. Department of Justice
Antitrust Division
555 4th Street, N.W.
Washington, D.C. 20004

Regina Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Melissa Newman
Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Craig Brown
Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Michelle Cary
Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Radhika Karmarkar
Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Thomas Boasberg
Legal Advisor to Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D. C. 20554

William Kennard
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 614
Washington, D.C. 20554

David Solomon
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 614
Washington, D.C. 20554

James Coltharp
Special Counsel to Commissioner James H.
Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

John Nakahata
Chief, Competition Division
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

James Casserly
Legal Asst. to Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Daniel Gonzalez
Legal Asst. to Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Blair Levin
Chairman's Chief of Staff
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Joseph Farrell, Chief Economist
Office of Management & Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Donald K. Stockdale, Jr.
Chief, Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Carol Matthey
Deputy Chief, Policy Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Richard Metzger
Deputy Chief, Bureau Operations
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Richard Welch
Chief, Policy Division
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

James Schlichting
Chief, Competitive Pricing Division
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Kathleen Levitz
Deputy Bureau Chief, Policy Division
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Suzanne Tetreault
Assistant General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 628-B
Washington, D.C. 20554

Paul Gallant
Legal Advisor to Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554



Barbara E. Clocker